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STATE DOCUMENTS

MAR 27 1972

MONTANA CONSTITUTIONAL CONVENTION

1971 - 1972

HIGHLIGHTS OF PROPOSED CONSTITUTION

The enclosed summary briefly outlines the major provisions of the proposed constitution, by stating both the principal provisions of the present constitution which are retained and additional provisions added by the Convention.

The references following each provision are to article and section numbers in the proposed constitution.

This summary is not exhaustive; it only mentions some of the most popular provisions. Many other provisions, possibly of particular interest to various people, are not included.



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ARTICLE II  
BILL OF RIGHTS

Retained From Present Constitution

No rights protected by the present Montana Declaration of Rights are deleted or abridged in the proposed Constitution. These include the freedom of speech, assembly and religion; the right of self government; the right to acquire, possess and protect property; the right to suffrage; right to bail, and right to a trial by jury, among others. In addition, the present Montana provision guaranteeing the right to keep and bear arms is retained in total.

New Provisions Added

In addition to retention of all rights protected by the present Constitution, the proposed document would protect:

- The right to a clean and healthful environment. Section 3.
- The right to pursue basic necessities. Section 3.
- The right to know (including the right to attend meetings of public agencies and to examine the agency's records), except when the demand of individual privacy clearly exceeds the merits of public disclosure. Section 9.
- Right of privacy. Section 10.
- Right to sue the state and its subdivisions for injury to person or property. Section 18.
- The age of majority was lowered to 18 and the rights of persons under that age were given constitutional protection. Sections 14 and 15.
- Right of participation. Governmental agencies must allow citizen access to the decision making institutions of state government. Section 8.
- Right against discrimination in the exercise of civil and political rights. Section 4.

ARTICLE III

GENERAL GOVERNMENT

Retained From Present Constitution

- Rights of the people to the referendum and initiative retained. Sections 4 and 5.
- The separation of powers principle continues to receive constitutional recognition. Section 1.

New Provisions Added

- Gambling. People given choice whether to retain a complete constitutional prohibition against all forms of gambling or whether legislature should have power to legalize certain forms of gambling. Section 9.

ARTICLE IV

SUFFRAGE AND ELECTIONS

Retained From Present Constitution

- Certain election safeguards, such as protecting voters from police harassment, are continued. Section 6.

New Provisions Added

- Voting age lowered to 18. Section 2.
- Right to secret ballot assured. Section 1.
- Legislature, in its discretion, may provide for a system of poll booth registration. Section 3.

## ARTICLE V

### THE LEGISLATURE

#### Retained From Present Constitution

- Voters are given the opportunity to retain a two house (bicameral) legislature, as is now in effect.
- Terms of office remain at four years for senators and (in a bicameral body) two years for house members. Section 3.
- Certain limits on legislative power are retained, such as limitations on special laws and requirements that the title of a bill correctly reflect its contents. Section 11.

#### New Provisions Added

- Voters are given the opportunity to adopt a one-house (unicameral) legislature; if they do so, they automatically will vote in 1980 on whether to continue the unicameral system. Section 13.
- Legislators will be elected from single-member districts. Section 14.
- The legislature will be reapportioned by a special commission of five citizens, to whom the legislature may submit recommendations. Section 14.
- The legislature will be a continuous body, meeting in regular annual sessions of not more than 60 legislative days. A legislature may extend the session length for any necessary legislation. Section 6.
- Either the governor or a majority of the legislators may call the legislature into special session. Section 6.
- All sessions of the legislature and of its committees shall be public; all votes on substantive matters shall be recorded and made public. Sections 10 and 11.
- Candidate for legislature must be resident of state for one year and resident of county or district for six months preceding date of election. Section 4.

## ARTICLE VI

### EXECUTIVE

#### Retained From Present Constitution

- Governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction and auditor retain present constitutional elective status. Section 1.
- Number of principal executive departments limited to 20. Section 7.
- Governor's pardon and military powers retained. Sections 12 and 13.

#### New Provisions Added

- Governor and lieutenant governor run as a team in both primary and general election; lieutenant governor freed of duty of presiding over the Senate so that he may take a more active, fulltime role in the executive branch. Section 2.
- Constitutional status of Board of Pardons, Board of Examiners, State Examiner, Board of Prison Commissioners and State Treasurer eliminated. (No mention in proposed constitution).
- Procedures for determining gubernatorial disability outlined. Section 8.
- Changes made in the governor's veto power. He no longer would be able to veto proposed constitutional amendments; on the other hand, he would be granted the "amendatory veto", under which he could return a bill to the legislature with proposed amendments. Section 10.
- Pocket veto was eliminated. Section 10.
- Lieutenant governor not to act as governor until the Governor out of state 45 days or unless the Governor authorizes lieutenant governor in writing to act as Acting Governor. Section 14.
- Clarifies method of filling vacancies in executive offices. Section 8.
- Lowers qualification regarding age of Governor, Lieutenant Governor from 30 to 25. Section 3.
- Requires 5 years actual practice for Attorney General. Section 3.



## ARTICLE VII

### JUDICIARY

#### Retained from Present Constitution

- Supreme Court jurisdiction and district court criminal jurisdiction retained. Sections 2 and 4.
- Judicial districts same. Section 6.
- Three-level court system retained, including justice of the peace courts. Section 1.
- Election of all judges retained. Section 8.

#### New Provisions Added

- Method of filling vacancies. If a district or supreme court judge resigns or dies, the governor must select a replacement from a list of candidates as provided by law and confirmed by the senate. Section 8.
- Merit retention of judges. If a judge in office decides to run for re-election but has no opponents for the office, his name is placed on the ballot for the electorate to approve or reject. Section 8.
- Terms of office for supreme court increased from six to eight years; district court terms increased from four to six years, and justice of the peace terms increased from two to four years. Section 7. The legislature is empowered to increase membership of the supreme court to seven. Section 3.
- Judicial standards commission. Added to allow citizens to bring complaints about judges to an independent commission to investigate and recommend retirement, removal or suspension of the judge in question to the supreme court. Section 11.
- Clerk of supreme court no longer a constitutional officer. (No mention in proposed constitution).
- Number of justices of peace restricted to one per county. Salaries of justices of peace provided by legislature. Section 5.

## ARTICLE VIII

### REVENUE AND FINANCE

#### Retained from Present Constitution

- Requirement retained that taxes must be levied by general law for public purpose. Section 1.
- Provision providing that the state shall never surrender or contract away its taxing power is retained. Section 2.
- Provision against diversion of gasoline tax and other highway revenue to uses other than those related to highways was retained, but made more flexible by allowing legislature to use the revenue for other purposes upon approval of three-fifths of the membership of each house. Section 6.

#### New Provisions Added

- Responsibility for system of property appraisal, assessment and equalization placed at state level; details of the program left to the legislature. Section 3.
- Local debt left to legislative determination. The present prohibition against state financial aid to local government units eliminated. Section 10.
- The legislature is given increased latitude in determining what property should or should not be granted tax-exempt status. As a matter of fact we no longer say that all property must be taxed and the Legislature can decide what should be taxed. Section 5.
- State debt may be authorized by either (a) a two-thirds vote of each house of the legislature or (b) a majority of the people voting on the issue. Section 8.
- The legislature is charged with strict accountability and proper investment of state funds, with some limitation on investment of public school money. Sections 12 and 13.
- The legislature will provide for an independent appeal procedure for taxpayer grievances. Section 7.

ARTICLE IX  
ENVIRONMENT AND NATURAL RESOURCES

Retained From Present Constitution

(No provisions retained because this is a new article. Several related provisions in various articles of present constitution are retained in other articles of the proposed constitution.)

New Provisions Added

--The state and each citizen is directed to maintain and improve a clean and healthful environment; the legislature is directed to provide adequate remedies to protect the environment. Section 1.

--All land disturbed by the taking of natural resources must be reclaimed as provided by law. Section 2.

--Water rights are given constitutional recognition; all water is declared to be the property of the state for the use of its people. Section 3.

--The legislature is directed to provide for identification and preservation of the state's cultural and historical resources. Section 4.

ARTICLE X  
EDUCATION AND PUBLIC LANDS

Retained From Present Constitution

--The legislature and other governmental units continue to be prohibited from spending money for sectarian purposes, but a revision specifies that the prohibition does not apply to federal funds provided expressly for distribution to non-public education. Section 6.

--Constitutional protection of investment of public school fund, and constitutional status for the Board of Land Commissioners are continued. Constitutional direction for holding and disposing of public lands is continued. Sections 2, 3, 4, and 11.

--The present provision against discrimination in education is retained and substantially broadened. Section 7.

New Provisions Added

--Two distinct boards (one for higher education and one for public education) are created, differing from the present situation where one board is responsible for all education matters. The two boards jointly form a third (the state board of education), which

is responsible for long-range planning and policy and program coordination and evaluation for the state's educational system. Section 9.

--The Board of Regents of Higher Education is expressly given "full power, responsibility, and authority" to control the Montana University System. Section 9.

--Local school trustees are guaranteed "supervision and control" over local schools. Section 9.

--The "distinct and unique cultural heritage" of American Indians receives constitutional recognition; one of the state's educational goals is stated to be preservation of Indians' cultural integrity. Section 1.



## ARTICLE XI

### LOCAL GOVERNMENT

#### Retained From Present Constitution

--Counties can be consolidated only with the approval of the residents of each county affected. Section 2.

--The legislature is directed to provide alternative forms of city and county or city-county consolidated government; such alternative forms, however, cannot be adopted without approval of local voters. Section 3.

--Counties which wish to retain the so-called "traditional" form of county government--three county commissioners and 10 other elected officials--are assured that they may do so. Section 3.

--Unless the local voters wish to adopt a different system in their city or county, local government units will continue to have only those powers given them by the legislature. Section 3.

#### New Provisions Added

--Two or more counties may agree to elect one official to serve a multicounty area; in addition, offices within a county continue to be subject to consolidation. Section 3.

--The legislature is ordered to provide procedures by which local voters may design their own forms of government--called self-government charters. Section 5.

--A new class of self-government powers is provided for those units which, with voter approval, have adopted their own charters or adopted a self-government form offered by the legislature. These units may exercise all powers except those prohibited by the constitution, state law or the local charter. Section 6.

--Local government units are given broad authority to cooperate and share services and functions in about every way imaginable. Section 7.

--Residents of a city or county are assured an opportunity within four years after adoption of the constitution to vote on whether they want to change their form of government. Such voter review of local government will be repeated at 10-year intervals. Section 9.

## ARTICLE XII

### DEPARTMENTS AND INSTITUTIONS

#### Retained From Present Constitution

--The Department of Agriculture continues its constitutional status; special levies for agricultural purposes also receive continued constitutional authorization. Section 1.

--The legislature is directed to provide for a Department of Labor and Industry. Section 2.

--A maximum of 8 hours is defined as a "regular day's work" in all industries except agriculture and stockraising; however, the legislature may redefine that maximum. Section 2.

--Public institutions and facilities shall be provided as the public good may require, including veteran's homes. Section 3.

#### New Provisions Added

--Primary responsibility for welfare assistance is placed on the legislature, rather than the counties as is now the case. Section 3.

--Restoration of rights of persons committed to institutions. Section 3.

## ARTICLE XIII

### GENERAL PROVISIONS

#### Retained From Present Constitution

--Corporate charters shall be granted, modified, or dissolved pursuant to law. Section 1.

--Legislature is directed to enact liberal homestead and exemption laws. Section 5.

--Perpetuities are prohibited, except they may be allowed for charitable purposes. Section 6.

#### New Provisions Added

--Salary commission created to recommend compensation for judiciary and elected members of the legislative and executive departments. Section 3.

--The legislature is directed to provide for an office of consumer counsel to represent the public before the Public Service Commission. The office is to be funded by a special tax on the regulated companies. Section 2.

--The legislature is charged with providing protection and education against harmful and unfair practices by either foreign or domestic corporations, individuals, or associations. Section 1.

--The legislature must provide for a code of ethics prohibiting conflicts of interest of state and local officers and employees. Section 4.

## ARTICLE XIV

### CONSTITUTIONAL REVISION

#### New Provisions Added

--Changing the constitution made easier. Amendments and constitutional conventions could be proposed by initiative petitions from the people, as well as by action of the legislature. The present limit on the number of constitutional amendments on any one ballot would be removed. Sections 1, 2, 8, and 9.

--The question of whether to call a constitutional convention would automatically be submitted to the voters every 20 years. Section 4.







